

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 07.07.2020

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 10418 OF 2013

P.Alagupandian

..Petitioner

- Vs -

1. The Commissioner for Municipal
Administration,
Chepauk, Chennai-5.

2. The Commissioner,
Nagappattinam Municipality,
Nagappatinam.

...Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus, directing the respondent to pass orders on the appeal petition submitted by the petitioner dated 09.07.2012 challenging the punishment imposed on him dated 30.04.2012 and also to treat the period of out of employment as duty with loss of pay but with continuity of service within a reasonable time and thus render justice and grant such other further relief.

For Petitioner : Mr. J.Ayngaraprabhu

For Respondents: Mr.A.N. Thambidurai, Spl.Govt. Pleader

ORDER

The petitioner has come up with the above writ petition challenging the the punishment imposed on him together with the order not to count the period of unauthorised absence for the purpose of service and pensionary benefits.

2. The case of the petitioner is that his mother, died in harness and, he was appointed as Sanitary worker on compassionate ground in the year 2000. After more than seven years of service, the petitioner failed to turn up for duty from 26.12.2007 onwards. Therefore a charge memo was issued on

11.03.2008 calling upon the petitioner to explain as to why action should not be taken for his unauthorised absence. He was placed under suspension by an order dated 26.06.008 and additional charges were also framed on 04.07.2008. Challenging the order of removal from service, the petitioner filed W.P. No.611 of 2011 before this Court, which was disposed of by this Court on 03.01.2012 by setting aside the order of removal from service and remitted the matter to the Commissioner, Nagapattinam Municipality to conduct a fresh enquiry and pass orders with specific direction not to impose a major penalty with a further condition that the petitioner would not be entitled to backwages. Accordingly, the Commissioner, Nagapattinam Municipality conducted a fresh enquiry and passed an order on 30.04.2012 imposing a punishment of stoppage of increment for a period of 3 years with cumulative effect. In the said order the disciplinary authority has treated the period of absence from 26.12.2007 to 30.07.2012 as leave on loss of pay and, thereby the said period shall not be counted for the purpose of service and pensionary benefits. Aggrieved by the said order, this petition has been filed.

3. Learned counsel appearing for the petitioner reiterated the grounds raised in the writ petition and contended that the order of the respondents amounts to a major punishment, as the respondent has directed not to count the period of unauthorised absence as period of service for the purpose of service and pensionary benefits, which is against the order passed by this Court in W.P. No.611 of 2011. It is the further submission of the learned counsel for the petitioner that the above order of the disciplinary authority is nothing but double punishment imposed on the petitioner which is impermissible in law and submitted that against the said order, an appeal has been filed and no order has been passed and, therefore, necessary orders be passed to consider the appeal favourably.

4. Learned Special Government Pleader appearing for the official respondents, while sought to sustain the impugned order, however, submitted that this Court may direct the 1st respondent to consider the petitioner's appeal, in accordance with law within a particular time frame.

5. This Court heard the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record.

6. In view of the limited relief sought for, this Court without going into the merits of the issue, directs the 1st respondents to consider the appeal filed by the petitioner in accordance with law and pass orders thereon within a period of three months from the date of receipt of a copy of this order.

7. With the above direction, this writ petition is disposed off. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(AD I)

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Sub Assistant Registrar

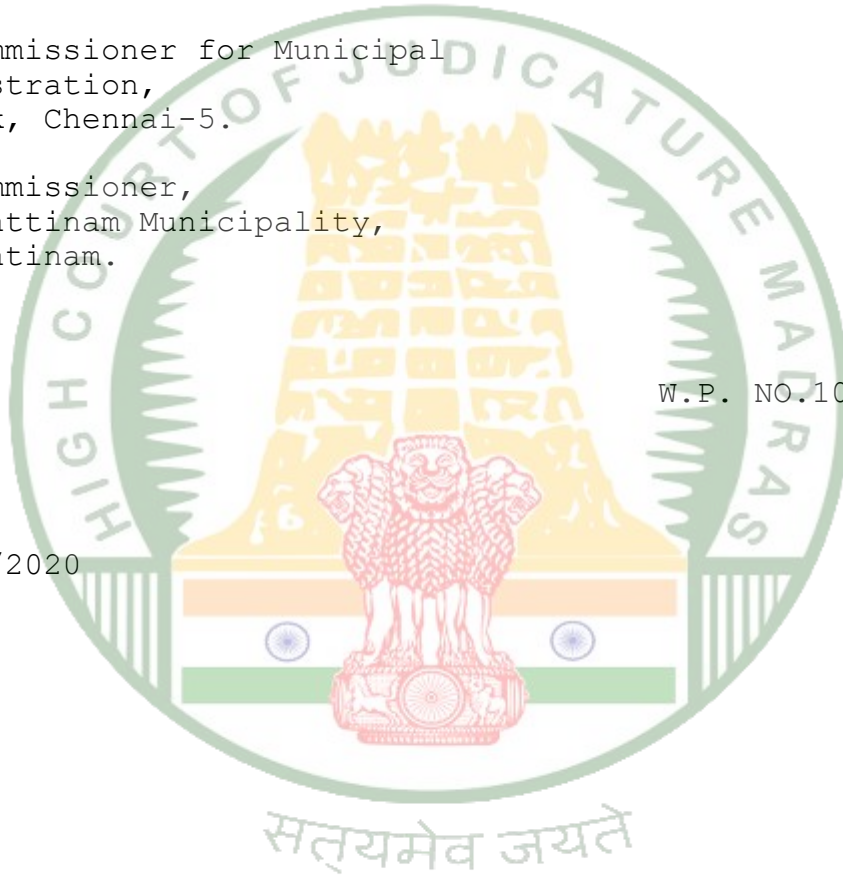
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To

1. The Commissioner for Municipal Administration,
Chepauk, Chennai-5.
2. The Commissioner,
Nagappattinam Municipality,
Nagappatinam.

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MP (CO)
KKV/04/09/2020



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